UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Nancy Meyer,

Plaintiff,

v.

FIA Card Services N.A.

Defendant.

Case No. 0:09-cv-02726-JRT-SRN

AFFIDAVIT OF KATHERINE LICUP IN SUPPORT OF DEFENDANT FIA CARD SERVICES, N.A.'S MOTION FOR SUMMARY JUDGMENT

STATE OF ILLINOIS
COUNTY OF COOK

BEFORE ME, the undersigned authority, personally appeared Katherine E. Licup, who, having been sworn, deposes and says:

1. I, Katherine Licup, am over the age of 21 and am fully competent to provide this affidavit. I am employed by Foley & Lardner LLP, and am counsel of record for FIA Card Services, N.A. ("FIA"). I have personal knowledge of all matters stated herein.

2. Attached hereto are true and correct copies of relevant portions of the following deposition transcripts and exhibits thereto in *Meyer v. FIA Card Services, N.A.* on which FIA relies in supporting its motion:

a. Exhibit A - Deposition of Nancy A. Meyer (selected pages) and Exhibits 1 – 9 as identified below:

i. Exhibit 1 (as marked) (Plaintiff 0001)

ii. Exhibit 2 (as marked) (Plaintiff 0002)

iii. Exhibit 5 (as marked) (Plaintiff 0006)

iv. Exhibit 26 (as marked) (Plaintiff 0140)

v. Exhibit 27 (as marked) (Plaintiff 0141)

vi. Exhibit 29 (as marked) (FIA-Meyer000047 – FIA-Meyer000059)

vii. Exhibit 30 (as marked) (FIA-Meyer000075 – FIA-Meyer000088)

viii. Exhibit 31 (as marked) (FIA-Meyer000060 – FIA-Meyer000074)

ix. Exhibit 41 (as marked) (Wells Fargo 18, 22, 31, 35, 39, 40, 43, 47)

b. Exhibit B - Deposition of Randolph Geiser (Part I) (selected pages) and Exhibit 1 as identified below:

i. Exhibit 20 (as marked) (FIA-Meyer000118 – FIA-Meyer000121)

c. Exhibit C - Deposition of Wesley Thompson (selected pages) and Exhibits 1 – 8 as identified below:

i. Exhibit 2 (as marked) (FIA-Meyer000089 – FIAMeyer000093)

ii. Exhibit 3 (as marked) (FIA-Meyer000228 – FIAMeyer000237)

iii. Exhibit 4 (as marked) (FIA-Meyer000212 – FIA-Meyer000227)

iv. Exhibit 5 (as marked) (FIA-Meyer000204 – FIA-Meyer000211)

v. Exhibit 6 (as marked) (FIA-Meyer000196 – FIA-Meyer000203)

vi. Exhibit 7 (as marked) (FIA-Meyer000051 – FIA-Meyer000056)

vii. Exhibit 8 (as marked) (FIA-Meyer000047 – FIA-Meyer000050)

viii. Exhibit 15 (as marked) (FIA-Meyer000045)

d. Exhibit D - Plaintiff's Answers to Defendant's First Set of Interrogatories

3. During the course of the litigation in the above-styled action, I received from my client certain records that have been produced in the ordinary course of litigation reflecting the status of Plaintiff's accounts at FIA. A true and correct copy of these documents are attached hereto, as described below:

a. Exhibit E – Letter to Plaintiff from FIA dated September 23, 2008 (FIA-Meyer000005)

b. Exhibit F – Automated Customer Data Verification forms (printed from E-OSCAR) sent to Credit Reporting Agencies concerning Plaintiff's accounts (FIA-Meyer000009 – FIA-Meyer000035)

c. Exhibit G – Letters to Plaintiff from FIA dated September 2, 2008 (FIA-Meyer000003 and FIA-Meyer000007)

4. Because Plaintiff alleges that she was a victim of credit card fraud, and significant personal identifying information surrounding her financial affairs is disclosed in the exhibits above which invokes Fed. R. Civ. P. 5.2, FIA is filing Exhibits A – D and the exhibits thereto, as well as Exhibits 1-3 hereto, with a Conventional Filing Placeholder via ECF. FIA is filing

unredacted hardcopies of these exhibits with the Court under seal and will serve these on Plaintiff's counsel pursuant to local rule and procedures. FIA will file redacted versions of any or all of these exhibits in accordance with the Protective Order stipulated to by the parties and entered by this Court should this Court or Plaintiff require it to do so.

5. Attached hereto are true and correct copies of Web pages, which are available to the public on the Internet, and which I myself searched and accessed via the Google search engine, which support FIA's motion. These exhibits do not contain personal identifying information and are filed herewith.

a. Exhibit H – Fraud Affidavit available on FTC Web site

b. Exhibit I – FICO Web page discussing effect of settlement on credit scores

AFFIANT SAYETH NOT FURTHER.

Katherine E. Licup
Foley & Lardner LLP
Counsel of Record for FIA Card Services, N.A.

STATE OF ILLINOIS
COUNTY OF COOK

The foregoing instrument was acknowledged before me this 30th day of June 2010, by Katherine E. Licup, who is personally known to me and who did take an oath.

6/30/10

OFFICIAL SEAL
JENNIFER M. ROGALNY
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 9-23-2013

Notary Public - State of Illinois
Printed Name: Jennifer M. Rogalny
My commission expires: 9/23/13

Exhibit A

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

PLACEHOLDER FOR
Exhibit A to Exhibit 1 (Licup Affidavit) in support of Defendant's Motion for Summary Judgment, and Exhibits 1-9 thereto

Nancy Meyer,

Plaintiff,

v. Case Number: 09-cv-2726-JRT-SRN

FIA Card Services, N.A.,

Defendant.

This document is a place holder for the following item(s) which are filed in conventional or physical form with the Clerk's Office:

A. Deposition of Nancy A. Meyer (selected pages)

1. Exhibit 1 (Plaintiff 0001)
2. Exhibit 2 (Plaintiff 0002)
3. Exhibit 5 (Plaintiff 0006)
4. Exhibit 26 (Plaintiff 0140)
5. Exhibit 27 (Plaintiff 0141)
6. Exhibit 29 (FIA-Meyer000047 – FIA-Meyer000059)
7. Exhibit 30 (FIA-Meyer000075 – FIA-Meyer000088)
8. Exhibit 31 (FIA-Meyer000060 – FIA-Meyer000074)
9. Exhibit 41 (Wells Fargo 18, 22, 31, 35, 39, 40, 43, 47)

If you are a participant in this case, this filing will be served upon you in conventional format.

This filing was not e-filed for the following reason(s):

- Item Under Seal pursuant to the Fed. R. Civ. P. 5.2
  (Document number of redacted version: 25-1)

Exhibit B

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

PLACEHOLDER FOR
Exhibit B to Exhibit 1 (Licup Affidavit) in support of Defendant's Motion for Summary Judgment, and Exhibit 1 thereto

Nancy Meyer,

Plaintiff,

v. Case Number: 09-cv-2726-JRT-SRN

FIA Card Services, N.A.,

Defendant.

This document is a place holder for the following item(s) which are filed in conventional or physical form with the Clerk's Office:

B. Deposition of Randolph Geiser (Part I) (selected pages)

1. Exhibit 1 (FIA-Meyer000118 – FIA-Meyer000121)

If you are a participant in this case, this filing will be served upon you in conventional format.

This filing was not e-filed for the following reason(s):

- Item Under Seal pursuant to the Fed. R. Civ. P. 5.2
  (Document number of redacted version: 25-1)

Exhibit C

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

PLACEHOLDER FOR
Exhibit C to Exhibit 1 (Licup Affidavit) in support of Defendant's Motion for Summary Judgment, and Exhibits 1-8 thereto

Nancy Meyer,

Plaintiff,

v. Case Number: 09-cv-2726-JRT-SRN

FIA Card Services, N.A.,

Defendant.

This document is a place holder for the following item(s) which are filed in conventional or physical form with the Clerk's Office:

C. Deposition of Wesley Thompson

1. Exhibit 2 (FIA-Meyer000089 – FIAMeyer000093)
2. Exhibit 3 (FIA-Meyer000228 – FIAMeyer000237)
3. Exhibit 4 (FIA-Meyer000212 – FIA-Meyer000227)
4. Exhibit 5 (FIA-Meyer000204 – FIA-Meyer000211)
5. Exhibit 6 (FIA-Meyer000196 – FIA-Meyer000203)
6. Exhibit 7 (FIA-Meyer000051 – FIA-Meyer000056)
7. Exhibit 8 (FIA-Meyer000047 – FIA-Meyer000050)
8. Exhibit 15 (FIA-Meyer000045)

If you are a participant in this case, this filing will be served upon you in conventional format.

This filing was not e-filed for the following reason(s):

- Item Under Seal pursuant to the Fed. R. Civ. P. 5.2
  (Document number of redacted version: 25-1)

Exhibit D

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

PLACEHOLDER FOR
Exhibit D to Exhibit 1 (Licup Affidavit)
in support of Defendant's
Motion for Summary Judgment

Nancy Meyer,

Plaintiff,

v. Case Number: 09-cv-2726-JRT-SRN

FIA Card Services, N.A.,

Defendant.

This document is a place holder for the following item(s) which are filed in conventional or physical form with the Clerk's Office:

D. Plaintiff's Answers to Defendant's First Set of Interrogatories

If you are a participant in this case, this filing will be served upon you in conventional format.

This filing was not e-filed for the following reason(s):

- Item Under Seal pursuant to the Fed. R. Civ. P. 5.2
  (Document number of redacted version: 25-1)

Exhibit E

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

PLACEHOLDER FOR
Exhibit E-G to Exhibit 1 (Licup Affidavit)
in support of Defendant's
Motion for Summary Judgment

Nancy Meyer,

Plaintiff,

v.

Case Number: 09-cv-2726-JRT-SRN

FIA Card Services, N.A.,

Defendant.

This document is a place holder for the following item(s) which are filed in conventional or physical form with the Clerk's Office:

Exhibit 1 - Affidavit of Katherine Licup

1. Exhibit E (FIA-Meyer000005) (closure letter)
2. Exhibit F (FIA-Meyer000009 – FIA-Meyer000035)
3. Exhibit G (FIA-Meyer000003 and FIA-Meyer000007)

If you are a participant in this case, this filing will be served upon you in conventional format.

This filing was not e-filed for the following reason(s):

- Item Under Seal pursuant to the Fed. R. Civ. P. 5.2
  (Document number of redacted version: 25-1)

Exhibit F

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

PLACEHOLDER FOR
Exhibit E-G to Exhibit 1 (Licup Affidavit)
in support of Defendant's
Motion for Summary Judgment

Nancy Meyer,

Plaintiff,

v. Case Number: 09-cv-2726-JRT-SRN

FIA Card Services, N.A.,

Defendant.

This document is a place holder for the following item(s) which are filed in conventional or physical form with the Clerk's Office:

Exhibit 1 - Affidavit of Katherine Licup

1. Exhibit E (FIA-Meyer000005) (closure letter)
2. Exhibit F (FIA-Meyer000009 – FIA-Meyer000035)
3. Exhibit G (FIA-Meyer000003 and FIA-Meyer000007)

If you are a participant in this case, this filing will be served upon you in conventional format.

This filing was not e-filed for the following reason(s):

- Item Under Seal pursuant to the Fed. R. Civ. P. 5.2
  (Document number of redacted version: 25-1)

Exhibit G

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

PLACEHOLDER FOR
Exhibit E-G to Exhibit 1 (Licup Affidavit)
in support of Defendant's
Motion for Summary Judgment

Nancy Meyer,

Plaintiff,

v. Case Number: 09-cv-2726-JRT-SRN

FIA Card Services, N.A.,

Defendant.

This document is a place holder for the following item(s) which are filed in conventional or physical form with the Clerk's Office:

Exhibit 1 - Affidavit of Katherine Licup

1. Exhibit E (FIA-Meyer000005) (closure letter)
2. Exhibit F (FIA-Meyer000009 – FIA-Meyer000035)
3. Exhibit G (FIA-Meyer000003 and FIA-Meyer000007)

If you are a participant in this case, this filing will be served upon you in conventional format.

This filing was not e-filed for the following reason(s):

- Item Under Seal pursuant to the Fed. R. Civ. P. 5.2
  (Document number of redacted version: 25-1)

Exhibit H

Average time to complete: 10 minutes

Identity Theft Victim's Complaint and Affidavit

A voluntary form for filing a report with law enforcement, and disputes with credit reporting agencies and creditors about identity theft-related problems. Visit ftc.gov/idtheft to use a secure online version that you can print for your records.

Before completing this form:
1. Place a fraud alert on your credit reports, and review the reports for signs of fraud.
2. Close the accounts that you know, or believe, have been tampered with or opened fraudulently.

About You *(the victim)*

Now

Leave (3) blank until you provide this form to someone with a legitimate business need, like when you are filing your report at the police station or sending the form to a credit reporting agency to correct your credit report.

(1) My full legal name: ______________________________
First Middle Last Suffix

(2) My date of birth: ______________
mm/dd/yyyy

(3) My Social Security number: ______-_____-________

(4) My driver's license: ________ ______________
State Number

(5) My current street address:

____
Number & Street Name Apartment, Suite, etc.

____
City State Zip Code Country

(6) I have lived at this address since ______________
mm/yyyy

(7) My daytime phone: (____)______________

My evening phone: (____)______________

My email: ______________________

At the Time of the Fraud

Skip (8) - (10) if your information has not changed since the fraud.

(8) My full legal name was: ______________________________
First Middle Last Suffix

(9) My address was: ______________________________
Number & Street Name Apartment, Suite, etc.

____
City State Zip Code Country

(10) My daytime phone: (____)______________ My evening phone: (____)______________

My email: ______________________

The Paperwork Reduction Act requires the FTC to display a valid control number (in this case, OMB control #3084-0047) before we can collect – or sponsor the collection of – your information, or require you to provide it.

About You *(the victim) (Continued)*

Declarations

(11) I ☐ did OR ☐ did not authorize anyone to use my name or personal information to obtain money, credit, loans, goods, or services — or for any other purpose — as described in this report.

(12) I ☐ did OR ☐ did not receive any money, goods, services, or other benefit as a result of the events described in this report.

(13) I ☐ am OR ☐ am not willing to work with law enforcement if charges are brought against the person(s) who committed the fraud.

About the Fraud

(14) I believe the following person used my information or identification documents to open new accounts, use my existing accounts, or commit other fraud.

(14): Enter what you know about anyone you believe was involved (even if you don't have complete information).

Name: ______________________________________
First Middle Last Suffix

Address: ______________________________________
Number & Street Name Apartment, Suite, etc.

____
City State Zip Code Country

Phone Numbers: (____)______________ (____)______________

Additional information about this person: ______________________________
____
____
____
____
____
____
____
____
____
____

(15) Additional information about the crime (for example, how the identity thief gained access to your information or which documents or information were used):

____

____

____

____

____

____

____

(14) and (15): Attach additional sheets as needed.

Documentation

(16) I can verify my identity with these documents:

- ☐ A valid government-issued photo identification card (for example, my driver's license, state-issued ID card, or my passport).
  If you are under 16 and don't have a photo-ID, a copy of your birth certificate or a copy of your official school record showing your enrollment and legal address is acceptable.
- ☐ Proof of residency during the time the disputed charges occurred, the loan was made, or the other event took place (for example, a copy of a rental/lease agreement in my name, a utility bill, or an insurance bill).

(16): Reminder: Attach copies of your identity documents when sending this form to creditors and credit reporting agencies.

About the Information or Accounts

(17) The following personal information (like my name, address, Social Security number, or date of birth) in my credit report is inaccurate as a result of this identity theft:

(A) ____

(B) ____

(C) ____

(18) Credit inquiries from these companies appear on my credit report as a result of this identity theft:

Company Name: ____

Company Name: ____

Company Name: ____

(19) Below are details about the different frauds committed using my personal information.

Name of Institution | Contact Person | Phone | Extension

Account Number | Routing Number | Affected Check Number(s)

Account Type: ☐ Credit ☐ Bank ☐ Phone/Utilities ☐ Loan
☐ Government Benefits ☐ Internet or Email ☐ Other

Select ONE:
☐ This account was opened fraudulently.
☐ This was an existing account that someone tampered with.

Date Opened or Misused (mm/yyyy) | Date Discovered (mm/yyyy) | Total Amount Obtained ($)

Name of Institution | Contact Person | Phone | Extension

Account Number | Routing Number | Affected Check Number(s)

Account Type: ☐ Credit ☐ Bank ☐ Phone/Utilities ☐ Loan
☐ Government Benefits ☐ Internet or Email ☐ Other

Select ONE:
☐ This account was opened fraudulently.
☐ This was an existing account that someone tampered with.

Date Opened or Misused (mm/yyyy) | Date Discovered (mm/yyyy) | Total Amount Obtained ($)

Name of Institution | Contact Person | Phone | Extension

Account Number | Routing Number | Affected Check Number(s)

Account Type: ☐ Credit ☐ Bank ☐ Phone/Utilities ☐ Loan
☐ Government Benefits ☐ Internet or Email ☐ Other

Select ONE:
☐ This account was opened fraudulently.
☐ This was an existing account that someone tampered with.

Date Opened or Misused (mm/yyyy) | Date Discovered (mm/yyyy) | Total Amount Obtained ($)

(19):
If there were more than three frauds, copy this page blank, and attach as many additional copies as necessary.

Enter any applicable information that you have, even if it is incomplete or an estimate.

If the thief committed two types of fraud at one company, list the company twice, giving the information about the two frauds separately.

Contact Person: Someone you dealt with, whom an investigator can call about this fraud.

Account Number: The number of the credit or debit card, bank account, loan, or other account that was misused.

Dates: Indicate when the thief began to misuse your information and when you discovered the problem.

Amount Obtained: For instance, the total amount purchased with the card or withdrawn from the account.

Your Law Enforcement Report

(20) One way to get a credit reporting agency to quickly block identity theft-related information from appearing on your credit report is to submit a detailed law enforcement report ("Identity Theft Report"). You can obtain an Identity Theft Report by taking this form to your local law enforcement office, along with your supporting documentation. Ask an officer to witness your signature and complete the rest of the information in this section. It's important to get your report number, whether or not you are able to file in person or get a copy of the official law enforcement report. Attach a copy of any confirmation letter or official law enforcement report you receive when sending this form to credit reporting agencies.

Select ONE:

- ☐ I have not filed a law enforcement report.
- ☐ I was unable to file any law enforcement report.
- ☐ I filed an automated report with the law enforcement agency listed below.
- ☐ I filed my report in person with the law enforcement officer and agency listed below.

(20): Check "I have not..." if you have not yet filed a report with law enforcement or you have chosen not to. Check "I was unable..." if you tried to file a report but law enforcement refused to take it.

Automated report: A law enforcement report filed through an automated system, for example, by telephone, mail, or the Internet, instead of a face-to-face interview with a law enforcement officer.

____

Law Enforcement Department State

______________________ ______________________

Report Number Filing Date (mm/dd/yyyy)

______________________ ______________________

Officer's Name (please print) Officer's Signature

______________________ (____)________________

Badge Number Phone Number

Did the victim receive a copy of the report from the law enforcement officer? ☐ Yes OR ☐ No

Victim's FTC complaint number (if available): ________________________

Signature

As applicable, sign and date *IN THE PRESENCE OF* a law enforcement officer, a notary, or a witness.

(21) I certify that, to the best of my knowledge and belief, all of the information on and attached to this complaint is true, correct, and complete and made in good faith. I understand that this complaint or the information it contains may be made available to federal, state, and/or local law enforcement agencies for such action within their jurisdiction as they deem appropriate. I understand that knowingly making any false or fraudulent statement or representation to the government may violate federal, state, or local criminal statutes, and may result in a fine, imprisonment, or both.

______________________________ ______________________________

Signature Date Signed (mm/dd/yyyy)

Your Affidavit

(22) If you do not choose to file a report with law enforcement, you may use this form as an Identity Theft Affidavit to prove to each of the companies where the thief misused your information that you are not responsible for the fraud. While many companies accept this affidavit, others require that you submit different forms. Check with each company to see if it accepts this form. You should also check to see if it requires notarization. If so, sign in the presence of a notary. If it does not, please have one witness (non-relative) sign that you completed and signed this Affidavit.

____

Notary

Witness:

______________________________ ______________________________

Signature Printed Name

______________________________ ______________________________

Date Telephone Number

Exhibit I

Credit Q&A

Credit missteps – how their affect on FICO scores vary

You may run into financial difficulties that impact your FICO score. Some difficulties may change your score by a small amount, others can drop your score significantly. What your score was before the difficulty appeared on your credit report also can make a difference.

Here is a comparison of the impact that credit problems can have on the FICO scores of two different people: Alex and Benecia. Note that their initial FICO scores are 100 points apart.

First, let's give you a general snapshot of Alex's and Benecia's credit profiles:

Alex has a FICO score of 680 and:	**Benecia has a FICO score of 780 and:**
Has six credit accounts, including several active credit cards, an active auto loan, a mortgage, and a student loan	Has ten credit accounts, including several active credit cards, an active auto loan, a mortgage and a student loan
An eight-year credit history	A fifteen-year credit history
Moderate utilization on his credit card accounts (his balances are 40-50% of his limits)	Low utilization on her credit card accounts (her balances are 15-25% of her limits)
Two reported delinquencies: a 90-day delinquency two years ago on a credit card account, and an isolated 30-day delinquency on his auto loan a year ago	Never has missed a payment on any credit obligation
Has no accounts in collections and no adverse public records on file	Has no adverse public records on file

	Alex	**Benecia**
Current FICO score	680	780
Score after one of these is added to credit report:		
Maxing out a credit card	650-670	735-755
A 30-day delinquency	600-620	670-690
Settling a credit card debt	615-635	655-675
Foreclosure	575-595	620-640
Bankruptcy	530-550	540-560

As you can see, maxing out a credit card has the smallest impact of these credit missteps. Declaring bankruptcy has the biggest impact to their scores. For someone like Benecia with a high FICO score of 780, declaring bankruptcy could lower her score by as much as 240 points. That's because the FICO scoring model generally gives the most weight to payment history when calculating the score, and bankruptcy is included in one's payment history. Also, a bankruptcy often involves more than one credit account, compared with a foreclosure which often involves just a single account.

High scores can fall farther. Notice that Benecia would lose more points for each misstep than would Alex, even though her FICO score starts out 100 points higher. That's because Alex's lower score of 680 already reflects his riskier past behavior. So the addition of one more indicator of increased risk on his credit report is not quite as significant to his score as it is for Benecia.

Settling a credit card debt is the third credit problem listed. It means that the lender agrees to accept less than the amount owed on the account. A settled account indicates a higher level of risk and typically happens only when an account is overdue. So in Benecia's case, to help make the debt settlement plausible we also added a 30-day delinquency to her credit report. Her new score reflects both changes. Alex's credit report already included a recent delinquency.

Are you more like Alex or Benecia? Many different combinations of information on a credit report can produce a FICO score of 680 or 780. Depending on what's on your own credit report, your credit score experience may vary from that of Alex or Benecia. By taking a look at your own credit report and comparing it to the profile of Alex and Benecia, you might be able to learn what to expect if you happen to encounter a credit misstep.

Was this article helpful? Give us feedback

More Credit Q&A

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